PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Item # 44 I. D. # 5567

ENERGY DIVISION **RESOLUTION E-3986**

April 27, 2006

R E S O L U T I O N

Resolution E-3986 approves BMS Communications' (BMS) request, on behalf of Crown Castle Solutions Corporation (CCSC), for a deviation from California Public Utilities Code Section 320. This resolution grants the request and authorizes CCSC to add approximately four miles of aerial optic cables, six directional antennas, six GPS antennas, and six Remote Access Node (RAN) cabinets along Highway 9 on existing joint poles in Santa Clara County, from west of Greenwood Road extending northwest to southeast of Carnelian Glen Court. Highway 9 is within a state scenic corridor.

By letter dated September 22, 2005, from BMS Communications.

SUMMARY

CPUC concurs due to technical requirements of the project, high cost of undergrounding the facilities, local government approval, and minimal visual impact on the environment.

Crown Castle Solutions Corp. (CCSC) has retained BMS Communications (BMS) as their agent to manage overall engineering, design, and permitting of a proposed wireless distribution antenna project in the City of Monte Sereno and the City of Saratoga.

On August 26, 2005, BMS submitted a request to the City of Saratoga Planning Commission (CSPC) for concurrence with this project. On September 22, 2006, BMS requested authorization from the California Public Utilities Commission (CPUC) for deviation from the scenic highway undergrounding requirements of the Public Utilities Code. This letter request was filed by the Energy Division as NON-40. On November 9, 2005, CSPC approved BMS's project. On December 13, 2005, BMS informed CPUC about CSPC's approval. On March 8, 2006, BMS submitted final data response to CPUC.

This resolution approves the request to add approximately four miles of aerial optic cables, six directional antennas, six GPS antennas, and six Remote Access Node (RAN) cabinets along Highway 9 on existing joint poles in Santa Clara County, from west of Greenwood Road extending northwest to southeast of Carnelian Glen Court.

BACKGROUND

The legislature enacted undergrounding policy in 1971.

California Public Utilities Code Section 320 (P.U. Code Section 320) was enacted in 1971, Chapter 1697, and reads in part as follows:

> The legislature hereby declares that it is the policy of this state to achieve, whenever feasible and not inconsistent with sound environmental planning, the undergrounding of all future electric and communication distribution facilities which are proposed to be erected in proximity to any highway designated a state scenic highway pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code and which would be visible from such scenic highways if erected above ground. The Commission shall prepare and adopt by December 31, 1972, a statewide plan and schedule for the undergrounding of all such utility distribution facilities in accordance with the aforesaid policy and the rules of the Commission relating to the undergrounding of facilities.
>
> The Commission shall require compliance with the plan upon its adoption.

The Commission is responsible for the administration of Section 320 of the P.U. Code. After hearings conducted in Case 9364, Commission Decision (D) 80864 implemented the State Legislation. D.80864 states that:

> In order to facilitate administration, letter requests for deviations will be accepted, reviewed by the Commission staff and, where appropriate, approved by Commission resolution. (74 CPUC 457, D.80864)

D.80864 stipulates that no communications or electric utility shall install overhead distribution facilities "in proximity to" and "visible from" any prescribed corridor on a designated scenic highway in California unless a showing is made before the Commission and a finding made by the Commission that undergrounding would not be feasible or would be inconsistent with sound environmental planning. The Decision also defines "in proximity to" as being within 1,000 feet from each edge of the right-of-way of designated State Scenic Highways.

D.80864 also stipulates that when repairs or replacement of existing overhead facilities in the same location do not significantly alter the visual impact of the Scenic Highway, they should not be considered as new construction and need not be converted to underground.

NOTICE

Publication in the Commission's Daily Calendar on February 27, 2006, provided public notice of BMS's letters dated September 22, 2005.

PROTESTS

The Commission received no protests.

DISCUSSION:

Economic feasibility and technical requirements are the determining factors in our recommendation.

We will evaluate this deviation request considering the nature of the project; local government recommendation; visibility, aesthetics, and environmental impact; and economic feasibility. We will base our recommendation on tangible evidence and analysis of these factors.

Nature of the Project

CCSC proposes to install approximately 19,554' (four miles) of aerial fiber optic cables on existing joint pole lines and approximately 1,450' (0.27 miles) of underground cables along Highway 9 as part of a greater construction project that includes the installation of a 648' underground conduit on Mendelsohn Way and another 828' underground conduit on Saratoga Los Gatos Road. CCSC has submitted an Application for Modification for its Certificate of Public Convenience and Necessity (CPCN) to CPUC to construct facilities related to this project.

Crown Castle Solutions Corp. (CCSC) has retained BMS Communications (BMS) as their agent to manage overall engineering, design, and permitting of a proposed wireless distribution antenna project in the City of Monte Sereno and the City of Saratoga.

The following aerial equipment requires PU Code 320 exemption:

- Six omni directional OpenCell antennas, each to be mounted on existing utility poles:
  - An antenna with a tip height of 30'10" to be placed individually as a "node" on existing utility pole GT29589, 185' west of Greenwood Road on Saratoga Los Gatos Road (Highway 9).
  - An antenna with a tip height of 44'8" to be placed individually as a "node" on existing utility pole GT98609, 535' east of Austin Way on Saratoga Los Gatos Road.
  - An antenna with a tip height of 35'6" to be placed individually as a "node" on existing utility pole GT31464, 164' west of Citrus Lane on Saratoga Los Gatos Road.
  - An antenna with a tip height of 28'6" to be placed individually as a "node" on existing untagged utility pole, 340' southwest of Pepper Lane on Saratoga Los Gatos Road.
  - An antenna with a tip height of 32'3" to be placed individually as a "node" on

existing utility pole PT6010-1, 188' southeast of Carnelian Glen Court on Saratoga Los Gatos Road.
  - An antenna with a tip height of 32'6" to be placed individually as a "node" on existing utility pole GT1029160, 252' north of Twin Creeks Road on Quito Road.
- One GPS antenna per antenna node, to be used for Emergency 911 compliance and time management of their distributed antenna network.
- Aerial and underground fiber optic cables connecting radio equipment amounted on bases of poles and antennas on support arms.
- Four miles of aerial optic cables along Highway 9 on existing joint poles in Santa Clara County, from west of Greenwood Road extending northwest to southeast of Carnelian Glen Court. These are SMF-28e Corning optical fiber cables 0.75 inches in outside diameter, and black in color.
- Four RAN cabinets, 36" x 31" x 23", one per antenna site. These cabinets will be installed near the bottom of the poles.

There will be a hub facility located inside an existing commercial office that contains radio and electronic equipment and battery backup cabinets to support the proposed distributed antenna system and the radio cabinets near the bottom of the poles.

BMS indicates that technical requirements which include service area, geographical elevations, alignment with neighboring sites, and customer demand components dictate wireless telecommunication facility locations.

BMS states that the proposed facilities will provide the infrastructure for multiple wireless carriers to better serve their customers. It will provide coverage along Highway 9 going east and west between Stoneridge Drive and the City of Monte Sereno, north along Quito Road as far as Woodbank Way, and north along Saratoga Sunnyvale Road and Saratoga Avenue as far as Herriman Avenue. The proposed fiber optic cables would provide the necessary capacity for the area without any additional cable in the future.

BMS plans to begin construction in 2006 and to complete the project in about 2 weeks.

This addition will be a permanent deviation.

Local Government Recommendation

Since the exemption process requires the Commission to consider the opinion of local government, BMS has requested recommendations from the City of Monte Sereno and the City of Saratoga Planning Commission. By a letter dated December 8, 2005, the City of Monte Sereno conditionally granted BMS's application for Administrative Site Development Approval. This approval applies to the two cell sites within its jurisdiction.

Below are City of Monte Sereno's conditions (see administrative use permits # U-05-12 and # U-05-13) and CCSC's responses to these conditions:

- All pole mounted equipment cabinets to be painted a dark color. CCSC will meet this requirement after CPUC's approval and when the site is built.
- CCSC to conform / relocate their facilities if required by a " Highway 9 Improvement Project" if needed. CCSC has agreed to this condition.
- CCSC shall receive all the necessary approvals and permits. CCSC will secure the last CALTRAN permit after CPUC's approval.
- CCSC shall remove all facilities if service is terminated. CCSC has agreed to this condition.

By Resolution No. 06-004, dated November 9, 2005, the City of Saratoga Planning Commission also approved BMS's request to install a telecommunication hub with five antennas and associated equipment.

Visibility, Aesthetics, and Environmental Impact

There are existing electric and communication cables on poles along the aforementioned sections of Highway 9. Overhead facilities would remain visible from the highway. The City of Saratoga Planning Commission have determined that since the proposed antennas and associated equipment will be co-located on existing utility poles, no additional supporting structures or towers that could have an impact on the rural atmosphere of the City of Saratoga will be required.

Photographs and project drawings submitted by BMS showing the proposed additions indicate little adverse impact on visibility and aesthetics of the highway.

Radio and electronic equipment and battery backup cabinets to support the proposed distributed antenna system will be inside an existing commercial office, so it will not be seen from the highway.

BMS does not expect the added facilities to be significantly more visible to the residences, businesses, and travelers along Highway 9.

Resolution No. 06-004, dated November 9, 2005, the City of Saratoga Planning Commission also stated that project equipment are categorically exempt from the California Environment Quality Act (CEQA) pursuant to section 15303 of the Guidelines for the Implementation of CEQA. This Class 3 exemption applies to installation of small new equipment and facilities.

Economic feasibility

BMS submitted the following cost estimates to the Commission on December 13, 2005.

Options	***Cost of Proposed Project (4 Miles of Aerial and 0.27 Miles of Underground)***	***Cost of the Project with Entire Undergrounding Cables***	***Comparative Cost Ratio***
Aerial Portion	$225,000	$1,045,000	4.6:1
Underground Portion	$55,000	$55,000	1:1
Total	$280,000	$1,100,000	3.9:1

BMS's estimated total cost to install 19,554' of aerial cables and 1,450' of underground cables is $280,000. The estimated cost of undergrounding the whole project (21,004 feet of cables) is $1,100,000.

The cost ratio is 3.9 to 1. Hence, undergrounding the entire project would substantially increase the cost. This cost disparity renders the underground alternative impractical.

Summary

Since the factors discussed above favor the placement of partial overhead cables instead of undergrounding the entire project; and technical requirements which include service area, geographical elevations, alignment with neighboring sites, and customer demand components dictate wireless telecommunication facility locations; the Commission should approve and grant this deviation; but construction work associated with this deviation is granted only through the end of 2007.

COMMENTS

This is an uncontested matter in which the Resolution grants the relief requested. Accordingly, pursuant to PU Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

FINDINGS

1. The Commission administers Section 320 of the Public Utilities (PU) Code requiring undergrounding of utilities lines along designated Scenic Highways, and considers letter requests for deviations.

2. The applicant must show that undergrounding would not be economically feasible, technically practical, or would be inconsistent with sound environmental planning.

3. By letter dated August 26, 2005, BMS requested authority for deviation from the undergrounding requirements of Section 320 of the Public Utilities Code.

4. This project involves adding approximately 19,554' (four miles) of aerial fiber optic cables, 0.75" outside diameter, black in color along Highway 9. In addition, there will be 1,450' of underground cables for this project.

5. BMS plans to begin construction in 2006 and complete the project in approximately 2 weeks.

6. This addition will be permanent.

7. There are existing electric and communication cables on poles along this section of Highway 9. Hence, overhead facilities would remain visible from the highway even if we deny BMS' request.

8. BMS does not expect that the added facilities will be significantly more visible to the residences, businesses, and travelers along Highway 9 after the completion of this project.

9. The cost to place the entire project (21,004' of communication lines) underground at this location would exceed the partial overhead option by more than 3.9:1.

10. By a letter dated December 8, 2005, the City of Monte Sereno conditionally granted BMS's application for Administrative Site Development Approval. CCSC has agreed to abide by those conditions.

11. By Resolution No. 06-004, dated November 9, 2005, the City of Saratoga Planning Commission approved BMS's request to install a telecommunication hub with five antennas and associated equipment.

12. The Saratoga Resolution also stated that project equipment are categorically exempt from the California Environment Quality Act (CEQA) pursuant to section 15303 of the Guidelines for the Implementation of CEQA. This Class 3 exemption applies to installation of small new equipment and facilities.

13. The Commission should approve and grant this deviation; but construction work associated with this deviation is granted only through the end of 2007.

THEREFORE, IT IS ORDERED THAT:

1. BMS Communications' (BMS) request, on behalf of Crown Castle Solutions Corporation (CCSC), to add approximately 4 miles of aerial cable and associated facilities along Highway 9 is approved. Construction work associated with this deviation is granted only through the end of 2007.

2. This Resolution is effective today.

I hereby certify that the Public Utilities Commission adopted this Resolution at its regular meeting on April 27, 2006. The following Commissioners voting favorably thereon:

STEVEN LARSON
Executive Director